

CHILTON ALLAN.

[To accompany bill H. R. No. 94.]

MARCH 5, 1840.

Mr. BUTLER, of Kentucky, from the Committee on Private Land Claims, made the following

REPORT:

The Committee on Private Land Claims, to whom were referred the petition and accompanying papers of Chilton Allan and wife, and William C. Sympson, of Kentucky, report :

That the petitioners claim 1,000 square arpens of land in the State of Louisiana, at the junction of the Atchafalaya and Mississippi rivers, for which they pray that a patent may be issued to them; and they further ask that they may be permitted to enter, at the Government price, a like quantity as a back concession. The claim of the petitioners is based on a grant, dated on the 10th day of January, 1799, from Manuel Gayoso de Lemos, the then Spanish Governor of Louisiana, to Andrew Robinson. The power of Governor Gayoso to make grants of land, at this period, is unquestionable; and the genuineness of the grant to Robinson is fully proven by Col. Charles Morgan, of Louisiana, who states that he has examined the original grant, and knows the signature to be that of Governor Gayoso, with which, he says, he is well acquainted; it is also recognised by one of this committee who has examined it. From all these facts, the committee are of opinion that the claim of Robinson is one that this Government is bound to protect by the terms on which Louisiana was ceded to the United States. It only remains, then, to be settled in what manner the petitioners are connected with the claim of Robinson; and, having conceded the fact that this claim was once a valid one, to inquire whether it has, or has not, been forfeited by neglect or otherwise. Although there is a direct deed of recent date from Robinson, the original grantee, to the petitioners, duly authenticated, before the committee, yet a short history of the case is deemed necessary to a correct understanding of the grounds on which the petitioners claim redress.

It is in proof that Robinson was living on the land in 1806. Colonel Morgan states that, at the request of Robinson, he made for him a survey (an authenticated copy of which is before the committee) for 640 acres, including his house and improvements, which indicated a possession of some years; that he had not then seen the grant of Robinson, or he would, as surveyor of the United States, have made the survey for 1,000 arpens, instead of 640 acres. It is proven by Morgan and others that Robinson sold his claim to Joshua Baker, some time in 1807, and moved to Texas; that

Baker took possession of the land so purchased, and held it until his death, which took place in 1811 or 1812. There is a deed of trust, also duly authenticated, from Baker to Chilton Allan, one of the petitioners, made for the purpose of indemnifying James Sympson, the ancestor of the petitioners, who had become the security of Baker to a large amount; by the terms of which deed, Allan, the trustee, was authorized to sell, and, as the proceedings on file show, did sell, the land purchased by Baker of Robinson; that James Sympson became the purchaser at \$1,005, and received a deed of conveyance from Allan, the trustee. Sympson died soon after, and the land descended to his two children—Mrs. Allan, then and still the wife of Chilton Allan, one of the petitioners, and William C. Sympson, then an infant.

The petitioners state that, for some time after the death of their said ancestor, they supposed their title regular; but, upon hearing it was questioned, they sent different agents to inquire into the condition of it, and were unable to trace any written evidence of sale from Robinson to Baker; that the death of Baker and Sympson, the removal of Robinson to Texas, the infancy of one, and *feme covertcy* of the other petitioner, the great distance of the land from their place of residence, and the unsettled condition of the country in which it is situated—all combined to prevent their more speedy prosecution of their claim. They have, however, recently sent an agent to Texas, and procured a deed of confirmation from Robinson, as previously stated, directly to themselves. It is further stated in the petition that the commissioners for the confirmation of land titles have refused to confirm their claim, and also the claim of some other person who pretended to hold under Robinson's settlement.

That the petitioners may have forfeited their claim by virtue of the various laws passed to compel the speedy adjustment of land claims, is more than probable. These laws, however, the committee apprehend, were designed to operate between citizen and citizen; and that the Government never designed a rigid enforcement of them, where it was alone concerned, at the expense of the citizen.

The committee are, therefore, of opinion (as the land appears to be unappropriated) that the prayer of the petitioners, as far as they ask for a patent to the 1,000 arpens covered by Robinson's grant, is reasonable; and they report a bill for their relief. They further report, that the claim for 1,000 arpens, as a back concession, ought not to be granted.